

THIS NEW RULE WAS APPROVED BY THE UTAH STATE BOARD OF EDUCATION AND IS PUBLISHED IN THE JANUARY 15, 2009 UTAH STATE BULLETIN, SUBJECT TO A 30-DAY COMMENT PERIOD, WITH A FIRST POSSIBLE EFFECTIVE DATE OF FEBRUARY 24, 2009.

R277. Education, Administration.

R277-117. Utah State Board of Education Protected Documents.

R277-117-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Request for proposal or RFP" means an official application or offer for services provided to the Board/USOE in response to an advertised opportunity to provide goods or services.
- C. "RFP-like document" means a grant application or a proposal of any kind offered in response to a Board request for applicants to provide goods or services to public education.
- D. "USOE" means the Utah State Office of Education.

R277-117-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Section 53A-1-402(c) which requires the Board to set minimum standards for alternative and pilot programs, Section 53A-1-402(c)(iv) which requires the Board to set minimum standards for curriculum and instruction requirements, Section 53A-1-402(e)(i) which requires the Board to set minimum standards for school productivity and cost effectiveness measures, Section 63G-2-305(6) which allows the Board to protect records if the disclosure would impair government procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity consistent with other provisions of Section 63G-2-305 and Section 63G-2-309, and by Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purposes of this rule:
 - (1) is to maintain fairness, objectivity, efficiency and timeliness, as the Board fulfills constitutional and statutory directives to and responsibilities for Utah public schools and public school programs.
 - (2) to protect the integrity of proposal or bidding processes in order to provide fair and equal opportunities for vendors and service providers.

R277-117-3. Board Procedures in Preparing and Releasing RFP and RFP-like Proposals or Grants.

- A. The Board or USOE staff acting for the Board shall act consistent with Section 63G-6-101 et seq. in advertising and soliciting services for Utah public schools unless the Board is specifically exempt from the procurement process in which case the Board shall continue to protect the integrity of a competitive process with the provisions of this rule.

THIS NEW RULE WAS APPROVED BY THE UTAH STATE BOARD OF EDUCATION AND IS PUBLISHED IN THE JANUARY 15, 2009 UTAH STATE BULLETIN, SUBJECT TO A 30-DAY COMMENT PERIOD, WITH A FIRST POSSIBLE EFFECTIVE DATE OF FEBRUARY 24, 2009.

B. The Board shall develop RFPs or RFP-like requests using the plain language of state statute(s) or federal regulation(s) that directs the Board to seek competitive or non-competitive applications or proposals for services that are funded through a public education appropriation to the Board.

C. The USOE, acting for the Board, shall use legislative intent to develop RFPs or RFP-like requests only when legislative intent is specifically written in state law, is passed by the State Legislature and is specific to the RFP in development.

D. The Board may request written information from legislators or legislative staff to explain the intent of individual bill sponsors; all written information received under this section shall be public information.

E. Board members or USOE staff may seek at the Board's or staff's sole discretion, additional information and expertise to facilitate the development of an RFP. All information gathered under this provision shall be public information, including the source of the information.

F. The Board may allow for public comment at Board meetings or Board committee meetings to discuss the legislative intent for RFPs.

R277-117-4. Confidentiality of RFP and RFP-like Proposals or Grants Prior to Release by the USOE.

A. The RFP or RFP-like proposal shall be a protected document under Section 63G-2-305(22) until the proposal is released by the USOE or a commercial distributor of an RFP specifically commissioned by the USOE.

B. USOE staff shall stamp or mark all draft RFP documents DRAFT until the final version of an RFP or RFP-like document is officially released for public review and response.

C. If an RFP process for which the Board is responsible is compromised, as determined by a vote of the Board if necessary, the proposal shall be void and the USOE shall begin a new RFP process.

D. A USOE employee who intentionally violates the provisions of this rule may be subject to employment discipline up to and including termination.

KEY: RFPs, grants, confidentiality

Date of Enactment or Last Substantive Amendment: 2009

Authorizing, and Implemented or Interpreted Law: 53A-1-402(c); 53A-1-402(c)(iv); 53A-1-402(e)(i); 53A-1-401(3)